

STATE OF NEW YORK

7384

2023-2024 Regular Sessions

IN SENATE

May 22, 2023

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

AN ACT to amend the real property tax law, in relation to income requirements for certain real property tax exemptions in a city with a population of one million or more

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 5 of section 459-c of the real
2 property tax law is amended by adding a new subparagraph (v) to read as
3 follows:

4 (v) Notwithstanding subparagraph (iv) of this paragraph, in a city
5 having a population of one million persons or more:

6 (1) except as provided in clause two of this subparagraph, the term
7 "income" as used in this section shall mean the "adjusted gross income"
8 for federal income tax purposes as reported on the applicant's federal
9 or state income tax return for the income tax year immediately preceding
10 the date of application, subject to any subsequent amendments or
11 revisions, minus any distributions, to the extent included in federal
12 adjusted gross income, received from an individual retirement account
13 and an individual retirement annuity; provided that if no such return
14 was filed for such income tax year, the applicant's income shall be
15 determined based on the amounts that would have so been reported if such
16 a return had been filed; and

17 (2) if an owner who has received an exemption pursuant to this section
18 for a property on an assessment roll for a tax year ending on or before
19 June thirtieth, two thousand twenty-four, would receive a greater
20 exemption for any tax year ending on or after June thirtieth, two thou-
21 sand twenty-five, the term "income" shall include social security and
22 retirement benefits, interest, dividends, total gain from the sale or
23 exchange of a capital asset which may be offset by a loss from the sale
24 or exchange of a capital asset in the same income tax year, net rental

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law or resolution providing therefor. In computing net rental income and net income from self-employment for the purposes of this item, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

§ 2. Paragraph (a) of subdivision 3 of section 467 of the real property tax law is amended by adding a new subparagraph (v) to read as follows:

(v) Notwithstanding subparagraph (iv) of this paragraph, in a city having a population of one million persons or more:

(1) Except as provided in clause two of this subparagraph, the term "income" as used in this section shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the income tax year immediately preceding the date of application, subject to any subsequent amendments or revisions, minus any distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity; provided that if no such return was filed for such income tax year, the applicant's income shall be determined based on the amounts that would have so been reported if such a return had been filed; and

(2) If an owner who has received an exemption pursuant to this section for a property on an assessment roll for a tax year ending on or before June thirtieth, two thousand twenty-four would receive a greater exemption for any tax year ending on or after June thirtieth, two thousand twenty-five, the term "income" shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law or resolution providing therefor. In computing net rental income and net income from self-employment for the purposes of this item, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

§ 3. Paragraph c of subdivision 1 of section 467-b of the real property tax law, as amended by section 10 of part K of chapter 59 of the laws of 2023, is amended to read as follows:

c. "Income" means:

(i) the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such federal adjusted gross income; provided that if no such return was filed for the applicable income tax year, the applicant's income shall be deter-

1 mined based on the amounts that would have so been reported if such a
2 return had been filed; and provided further, that when determining
3 income for purposes of this section, the following conditions shall be
4 applicable:

5 ~~[(i)]~~ (A) the governing body of a municipal corporation, after a
6 public hearing, may adopt a local law, ordinance or resolution providing
7 that any social security benefits that were not included in the appli-
8 cant's federal adjusted gross income shall not be considered income;

9 ~~[(ii)]~~ (B) distributions received from an individual retirement
10 account or individual retirement annuity that were included in the
11 applicant's federal adjusted gross income shall not be considered income
12 unless the governing body of a municipal corporation, after a public
13 hearing, adopts a local law, ordinance or resolution providing other-
14 wise;

15 ~~[(iii)]~~ (C) the applicant's income shall be offset by all medical and
16 prescription drug expenses actually paid that were not reimbursed or
17 paid for by insurance, if the governing body of a municipal corporation,
18 after a public hearing, adopts a local law, ordinance or resolution
19 providing therefor;

20 ~~[(iv)]~~ (D) any tax-exempt interest or dividends that were excluded
21 from the applicant's federal adjusted gross income shall be considered
22 income; and

23 ~~[(v)]~~ (E) any losses that were applied to reduce the applicant's
24 federal adjusted gross income shall be subject to the following limita-
25 tions:

26 ~~[(A)]~~ (1) the net amount of loss reported on federal Schedule C, D, E,
27 or F shall not exceed three thousand dollars per schedule,

28 ~~[(B)]~~ (2) the net amount of any other separate category of loss shall
29 not exceed three thousand dollars, and

30 ~~[(C)]~~ (3) the aggregate amount of all losses shall not exceed fifteen
31 thousand dollars; or

32 (ii) notwithstanding subparagraph (i) of this paragraph, in a city
33 with a population of one million or more persons:

34 (A) the sum of the adjusted gross incomes reported on the federal
35 income tax returns of the applicant and all other members of the appli-
36 cant's household for the income tax year immediately preceding the date
37 of application, subject to any subsequent amendments or revisions, less
38 any distributions, to the extent included in each such adjusted gross
39 income, received from an individual retirement account or retirement
40 annuity; provided that if no such income tax return was filed by any
41 member of the applicant's household for such income tax year, the income
42 of such applicant or member of the applicant's household shall be deter-
43 mined as if such a return had been filed;

44 (B) provided, however, that income may be calculated as the income
45 received by all members of the household from all sources after
46 deduction of all income and social security taxes and includes social
47 security and retirement benefits, supplemental security income and addi-
48 tional state payments, public assistance benefits, interest, dividends,
49 net rental income, salary or earnings, and net income from self-employ-
50 ment, but shall not include gifts or inheritances, payments made to
51 individuals because of their status as victims of Nazi persecution, as
52 defined in federal P.L. 103-286, or increases in benefits accorded
53 pursuant to the social security act or a public or private pension paid
54 to any member of the household which increase, in any given year, does
55 not exceed the consumer price index (all items United States city aver-
56 age) for such year which take effect after the date of eligibility of

head of the household receiving benefits hereunder whether received by the head of the household or any other member of the household, when the following conditions are met:

(1) a rent increase exemption order was granted to the head of household prior to July first, two thousand twenty-four;

(2) such rent increase exemption order is either renewed after each benefit period or granted pursuant to paragraph (d) of subdivision two of this section to account for a temporary increase in income;

(3) income calculated as described in this subparagraph would yield a lower amount than income calculated as described in subparagraph (i) of this paragraph; and

(C) provided, further, that a change in the method of calculating income pursuant to this paragraph shall not affect eligibility to file a short-form renewal application in accordance with subparagraph two of paragraph a of subdivision four of this section;

§ 4. Paragraph f of subdivision 1 of section 467-c of the real property tax law, as amended by section 11 of part K of chapter 59 of the laws of 2023, is amended to read as follows:

f. "Income" means:

(1) the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such federal adjusted gross income; provided that if no such return was filed for the applicable income tax year, the applicant's income shall be determined based on the amounts that would have so been reported if such a return had been filed; and provided further, that when determining income for purposes of this section, the following conditions shall be applicable:

~~[(1)]~~ (i) the governing body of a municipal corporation, after a public hearing, may adopt a local law, ordinance or resolution providing that any social security benefits that were not included in the applicant's adjusted gross income shall not be considered income;

~~[(2)]~~ (ii) distributions received from an individual retirement account or individual retirement annuity that were included in the applicant's federal adjusted gross income shall not be considered income unless the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing otherwise;

~~[(3)]~~ (iii) the applicant's income shall be offset by all medical and prescription drug expenses actually paid that were not reimbursed or paid for by insurance, if the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing therefor;

~~[(4)]~~ (iv) any tax-exempt interest or dividends that were excluded from the applicant's federal adjusted gross income shall be considered income; and

~~[(5)]~~ (v) any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:

~~[(1)]~~ (A) the net amount of loss reported on federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule,

~~[(1)]~~ (B) the net amount of any other separate category of loss shall not exceed three thousand dollars, and

~~[(1)]~~ (C) the aggregate amount of all losses shall not exceed fifteen thousand dollars~~[-]~~; and

1 ~~[(6)]~~ (vi) When the eligible head of the household has retired on or
2 after the commencement of the taxable period and prior to the date of
3 making an application for a rent increase exemption order/tax abatement
4 certificate pursuant to this section, such person's income shall be
5 adjusted by excluding salary or earnings and projecting such person's
6 retirement income over the entire taxable period~~[-]~~; or

7 (2) notwithstanding subparagraph one of this paragraph, in a city with
8 a population of one million or more persons:

9 (i) the sum of the adjusted gross incomes reported on the federal
10 income tax returns of the applicant and all other members of the appli-
11 cant's household for the income tax year immediately preceding the date
12 of application, subject to any subsequent amendments or revisions, less
13 any distributions, to the extent included in each such adjusted gross
14 income, received from an individual retirement account or retirement
15 annuity; provided that if no such income tax return was filed by any
16 member of the applicant's household for such income tax year, the income
17 of such applicant or member of the applicant's household shall be deter-
18 mined as if such a return had been filed;

19 (ii) provided, however, that income may be calculated as the income
20 received by the eligible head of the household combined with the income
21 of all other members of the household from all sources after deduction
22 of all income and social security taxes and includes without limitation,
23 social security and retirement benefits, supplemental security income
24 and additional state payments, public assistance benefits, interest,
25 dividends, net rental income, salary and earnings, and net income from
26 self employment, but shall not include gifts or inheritances, payments
27 made to individuals because of their status as victims of Nazi perse-
28 cution as defined in federal P.L. 103-286, nor increases in benefits
29 accorded pursuant to the social security act or a public or private
30 pension paid to any member of the household which increase, in any given
31 year, does not exceed the consumer price index (all items United States
32 city average) for such year which take effect after the eligibility date
33 of an eligible head of the household receiving benefits hereunder wheth-
34 er received by the eligible head of the household or any other member of
35 the household, when the following conditions are met:

36 (A) a rent increase exemption order was granted to the head of house-
37 hold prior to July first, two thousand twenty-four;

38 (B) such rent increase exemption order is either renewed after each
39 benefit period or granted pursuant to subparagraph four of paragraph a
40 of subdivision three of this section to account for a temporary increase
41 in income;

42 (C) income calculated as described in this clause would yield a lower
43 amount than income calculated as described in clause (i) of this subpar-
44 agraph; and

45 (iii) provided, further, that a change in the method of calculating
46 income pursuant to this subparagraph shall not affect eligibility to
47 file a short-form renewal application in accordance with subparagraph
48 two of paragraph a of subdivision four of this section.

49 § 5. This act shall take effect immediately and shall be deemed to
50 have been in full force and effect on and after May 3, 2023.